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July 16, 1992

**ORIGINAL  
FILE**

By Hand Delivery

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Comments of Sutro Tower, Inc.  
MM Docket No. 87-268

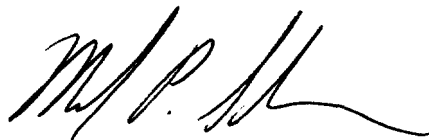
Dear Ms. Searcy:

Enclosed, for filing with the Commission, are an original plus twenty-one copies of our comments in the above-referenced proceeding.

Please endorse the twenty-first copy as received by your office and return it to our messenger.

Thank you for your attention to this matter.

Very truly yours,



Mark P. Schreiber

Enclosures

cc w/encl.: Walter W. Hansell  
S. Troy Sandelin  
Eugene Zastrow

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FEDERAL COMMUNICATIONS COMMISSION  
MISSION OF THE SECRETARY

**MM Docket No. 87-268**

**COMMENTS OF SUTRO TOWER, INC.**

1 Sutro Tower provides facilities for five VHF and five UHF television stations (including commercial and noncommercial stations) and four FM radio stations, as well as paging, dispatch, cellular telephone and point-to-point microwave communications.

1

adopt a flexible and receptive approach to requests for construction permit extensions and any corresponding ATV implementation extensions. While Sutro Tower appreciates the difficulty of the Commission's task and the desire to introduce ATV to the public in an efficient and expeditious manner, the Commission's current plan is too rigid and too accelerated in light of potential local obstacles.

The current plan endorsed by the Commission creates uniform, across-the-board requirements for all broadcasters. The plan allows a three-year construction period, at which point each broadcaster must be capable of transmitting ATV signals. The plan also establishes a tentative nine year deadline for full simulcast and a fifteen year deadline for complete conversion to ATV. In order to eliminate the potential for uncompetitive delays, the Commission has mandated that broadcasters who do not construct ATV facilities within the specified time frames lose their initial eligibility for an ATV frequency.

While Sutro Tower appreciates the need for a specific implementation timetable, the lack of flexibility at the local level ultimately undermines the efficacy of the plan on the national level. By imposing the same implementation schedule on each individual broadcaster, the Commission overlooks potentially problematic local governmental requirements which are beyond the control of local broadcasters and which may hinder the efficient and non-disruptive transition to ATV.

Delays resulting from zoning, planning, permitting and other local government approval processes are commonplace. The San Francisco community is no exception. In the past, Sutro Tower has faced high or insurmountable opposition from local government entities such as the San Francisco Planning Commission. Most changes to the tower structure or building facility will be subject to extensive scrutiny, and may be approved only through lengthy local administrative processes.

Currently the Sutro Tower building facility is completely occupied. We expect that the transition to ATV may require expansion of the building facility to accommodate the requisite additional equipment. To the extent the Commission has not expressly preempted local land use controls which might hinder the transition to ATV, any attempt to expand Sutro Tower's facility is certain to face significant local delays and obstacles.

The Second Report and Order does not expressly recognize the additional technical challenges a multiple-broadcaster facility like Sutro Tower must overcome. To comply with the Commission's original mandate for Sutro Tower to provide equal access to qualified broadcasters, Sutro Tower is configured as a candelabra structure, with two or more television antennas on each of its three stacks. The final antenna configuration was determined only after extensive technical analysis, and required innovative and unique solutions such as Channels 4 and 5 broadcasting from the same antenna. Further complicating

matters, the TV antenna space on Sutro Tower is already fully occupied. Therefore, any plan which mandates ATV simulcast or the duplication of antennas will require complex engineering studies and potentially significant antenna modifications, a task far more daunting for multiple broadcaster facilities such as Sutro Tower than for single broadcaster towers. The Commission should recognize and accommodate the particular challenges and delays multiple-broadcaster facilities such as Sutro Tower must overcome in order to make provision for ATV service.

Such delays may be exacerbated by community concerns about any increases in electromagnetic broadcast signals which emanate from the antennas on the tower, even though numerous studies have shown that Sutro Tower's emissions are at levels far below even the most stringent human health standards. The San Francisco Department of Public Health, the State of California Department of Health Services, and local neighborhood groups have previously expressed concern about perceived potential health hazards related to radio and television waves. Any increase in the strength or number of broadcast signals is likely to augment such concerns, creating further delay.

The current deadlines proposed by the Commission do not make adequate allowances for likely and acknowledged complications and delays. In light of the serious local construction and safety perception issues which must be addressed by Sutro Tower and other similar broadcast facilities, and by broadcast licensees using such facilities, any inflexible timetable is

unreasonable and impracticable. The rigidity of the timetable may also be inequitable if delays beyond a broadcaster's control result in the forfeiture of its assigned ATV channel.

Concerns about the Commission's timetable are magnified when one takes into account potential problems of a more general nature addressed by other comments in this proceeding, such as the inability to take advantage of economies of scale due to an accelerated ATV implementation schedule, high equipment costs, the need to use early technology, and inadequate time for arranging financing and conducting negotiations.

Although the Commission recognized some potential for delays in these areas and on the local level in its Second Report and Order, the difficulties of ATV implementation at complex multi-station facilities in large cities have not been expressly recognized. These difficulties will directly affect the licensees which depend on such facilities, and will be beyond the control of any individual licensee. Therefore, we would like to reaffirm the very real need for flexibility with regard to construction deadlines. It is necessary to highlight the fact that such delays are in many cases a probability, not a mere possibility, and likely to be of inescapable significance. Absent a policy of federal preemption over local land use policies and regulations that may delay ATV implementation, the

Commission should exercise a liberal and flexible policy as to requests for construction permit extensions. Such a policy would facilitate the smooth transition to ATV.

Dated this 15<sup>th</sup> day of July, 1992 at San Francisco, California.

Respectfully submitted,

Walter W. Hansell, Esq.  
Mark P. Schreiber, Esq.  
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By: Walter W. Hansell  
Walter W. Hansell

Attorneys for SUTRO TOWER, INC.

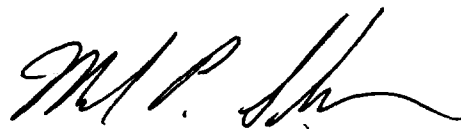
1034-13.II

C E R T I F I C A T E   O F   S E R V I C E

I, Mark P. Schreiber, do hereby certify that a copy of the foregoing ~~Comments~~ of Sutro Tower, Inc. has been sent, by United States mail, first-class postage prepaid, this 15th day of July 1992 to each of those on the attached service list.

I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed at San Francisco, California this 15th day of July 1992.

A handwritten signature in dark ink, appearing to read 'M.P. Schreiber', is written over a horizontal line.

Mark P. Schreiber



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